

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

MICHAEL RIGNEY,

Plaintiff,

v.

CASE NO. 20-3106-SAC

CHRISTOPHER TRAPP, et al.,

Defendants.

MEMORANDUM AND ORDER
FOR MARTINEZ REPORT

Plaintiff Michael Rigney, a prisoner at the El Dorado Correctional Facility in El Dorado, Kansas, brings this *pro se* civil rights action. Plaintiff proceeds *in forma pauperis*.

Plaintiff's Complaint (ECF No. 1) is based on an incident that occurred on February 24, 2020 when Plaintiff was being held at the Lansing Correctional Facility ("LCF"). Mr. Rigney alleges that he and another inmate broke a window in his cell. Officers placed an MRA cage on his cell. Officer Trapp returned a few minutes later, entered Plaintiff's cell, shoved him into a metal shelf, choked him, threatened to snap his neck if he moved, called him a "chomo" (slang for child molester), and repeatedly punched him in the face. Medical was called, and Plaintiff's injuries were photographed.

Plaintiff names two defendants, Michael Trapp and the Kansas Department of Corrections. Mr. Rigney does not state what constitutional rights he believes have been violated. He seeks damages of \$150,000.

The Court finds that the proper processing of Plaintiff's claims cannot be achieved without additional information from appropriate officials of LCF. *See Martinez v. Aaron*, 570 F.2d 317 (10th Cir. 1978); *see also Hall v. Bellmon*, 935 F.2d 1106 (10th Cir. 1991). Accordingly, the Court orders the appropriate officials of KDOC to prepare and file a *Martinez* Report. Once the report has been received, the Court can properly screen Plaintiff's claims under 28 U.S.C. § 1915.

IT IS THEREFORE ORDERED BY THE COURT that:

(1) The Clerk of Court shall serve Defendants under the e-service pilot program in effect with the Kansas Department of Corrections ("KDOC").

(2) Upon the electronic filing of the Waiver of Service Executed pursuant to the e-service program, KDOC shall have **sixty (60) days** to prepare the *Martinez* Report. Upon the filing of that report, the AG/Defendants shall have an additional **sixty (60) days** to answer or otherwise respond to the Complaint.

(3) Officials responsible for the operation of the Lansing Correctional Facility are directed to undertake a review of the subject matter of the Complaint:

- a. To ascertain the facts and circumstances;
- b. To consider whether any action can and should be taken by the institution to resolve the subject matter of the Complaint; and
- c. To determine whether other like complaints, whether pending in this Court or elsewhere, are related to this Complaint and should be considered together.

(4) Upon completion of the review, a written report shall be compiled which shall be filed with the Court and served on Plaintiff. The KDOC must seek leave of the Court if it wishes to file certain exhibits or portions of the report under seal or without service on Plaintiff. Statements of all witnesses shall be in affidavit form. Copies of pertinent rules, regulations, official

documents, and, wherever appropriate, the reports of medical or psychiatric examinations shall be included in the written report. Any recordings related to Plaintiff's claims shall also be included.

(5) Authorization is granted to the officials of the Lansing Correctional Facility to interview all witnesses having knowledge of the facts, including Plaintiff.

(6) No answer or motion addressed to the Complaint shall be filed until the *Martinez* Report required herein has been prepared.

(7) Discovery by Plaintiff shall not commence until Plaintiff has received and reviewed Defendants' answers or responses to the Complaint and the report ordered herein. This action is exempted from the requirements imposed under Fed. R. Civ. P. 26(a) and 26(f).

Copies of this order shall be transmitted to Plaintiff, to Defendant, and to the Attorney General for the State of Kansas.

IT IS SO ORDERED.

DATED: This 30th day of October, 2020, at Topeka, Kansas.

s/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge